

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0226-WQ-E TCEQ ID: RN105373047 CASE NO.: 35347
RESPONDENT NAME: Allco, Inc.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: New Memorial High School, 3501 Sergeant Lucian Adams Drive, Port Arthur, Jefferson County</p> <p>TYPE OF OPERATION: High school construction site</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 9, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. T.W. Harrison, President, Allco, Inc., P.O. Box 3684, Beaumont, Texas 77704-3684 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 15, 2007</p> <p>Date of NOE Relating to this Case: November 20, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to obtain authorization to discharge stormwater associated with construction activities under a Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit. Specifically, the investigator observed that the Site had been graded, the utilities and a building foundation had been installed, and concrete pavement was being poured, but the Respondent had not obtained authorization to conduct these construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p>Total Assessed: \$2,700</p> <p>Total Deferred: \$540 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,160</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 12, 2008, the Respondent obtained authorization to discharge stormwater associated with construction activities under a TPDES Construction General Permit and developed and implemented a Storm Water Pollution Prevention Plan for the Site.</p>

Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	22-Jan-2008	Screening	4-Feb-2008	EPA Due	
	PCW	4-Mar-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Allco, Inc.		
Reg. Ent. Ref. No.	RN105373047		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35347	No. of Violations	1
Docket No.	2008-0226-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes No change in penalty amount due to average performer classification.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction **Subtotal 5** \$300

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent achieved compliance on February 12, 2008.

Subtotal 6 \$0

Total EB Amounts	\$35
Approx. Cost of Compliance	\$2,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$2,700

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,700

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,700

DEFERRAL 20% Reduction **Adjustment** -\$540

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,160

Screening Date 4-Feb-2008

Docket No. 2008-0226-WQ-E

PCW

Respondent Allco, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35347

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105373047

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change in penalty amount due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 4-Feb-2008 Respondent Allco, Inc. Case ID No. 35347 Reg. Ent. Reference No. RN105373047 Media [Statute] Water Quality Enf. Coordinator Lynley Doyen Violation Number 1	Docket No. 2008-0226-WQ-E <div style="text-align: right;">PCW</div> <div style="text-align: right; font-size: small;"> Policy Revision 2 (September 2002) PCW Revision January 29, 2008 </div>																				
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)																					
Violation Description Failed to obtain authorization to discharge stormwater associated with construction activities under a Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit. Specifically, on November 15, 2007, the investigator observed that the Site had been graded, the utilities and a building foundation had been installed, and concrete pavement was being poured, but the Respondent had not obtained authorization to conduct these construction activities.																					
Base Penalty \$10,000																					
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <div style="text-align: right; margin-top: 5px;"> Percent 0% </div>		Major	Moderate	Minor		Release					Actual					Potential				
	Major	Moderate	Minor																		
Release																					
Actual																					
Potential																					
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Falsification</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <div style="text-align: right; margin-top: 5px;"> Percent 10% </div>	Falsification	Major	Moderate	Minor			x													
Falsification	Major	Moderate	Minor																		
	x																				
Matrix Notes	<div style="border: 1px solid black; padding: 10px; text-align: center;"> 100% of the rule requirement was not met. </div>																				
Adjustment \$9,000																					
<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div> \$1,000																					

Economic Benefit Worksheet

Respondent: Allco, Inc.
Case ID No. 35347
Reg. Ent. Reference No. RN105373047
Media: Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,000	15-Nov-2007	12-Feb-2008	0.2	\$2	\$33	\$34
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$100	15-Nov-2007	12-Feb-2008	0.2	\$1	n/a	\$1
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a stormwater permit and to develop and implement a stormwater pollution prevention plan. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,100

TOTAL

\$35

Compliance History

Customer/Respondent/Owner-Operator:	CN601184302	Allico, Inc.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105373047	NEW MEMORIAL HIGH SCHOOL	Classification: AVERAGE	Site Rating: 3.01 BY DEFAULT
ID Number(s):				
Location:	3501 SGT LUCIAN ADAMS DR, PORT ARTHUR, JEFFERSON CO, TX			Repeat Violator? No Rating Date: 9/1/2007
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	February 04, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 04, 2003 to February 04, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Allico, Inc.
4. If Yes, who was/were the prior owner(s)? Allico, Ltd.
5. When did the change(s) in ownership occur? June 28, 2007

Components (Multimedia) for the Site :

- | | |
|------------------------|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | 1 01/15/2008 (609413) |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| Sites Outside of Texas | |
| | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ALLCO, INC.
RN105373047**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0226-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Allco, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent operates a high school construction site at 3501 Sergeant Lucian Adams Drive in Port Arthur, Jefferson County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Seven Hundred Dollars (\$2,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Sixty Dollars (\$2,160) of the

administrative penalty and Five Hundred Forty Dollars (\$540) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on February 12, 2008, the Respondent obtained authorization to discharge stormwater associated with construction activities under a Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit and developed and implemented a Storm Water Pollution Prevention Plan for the Site.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Site, the Respondent is alleged to have failed to obtain authorization to discharge stormwater associated with construction activities under a TPDES Construction General Permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on November 15, 2007. Specifically, the investigator observed that the Site had been graded, the utilities and a building foundation had been installed, and concrete pavement was being poured, but the Respondent had not obtained authorization to conduct these construction activities.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Allco, Inc., Docket No. 2008-0226-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Allco, Inc.

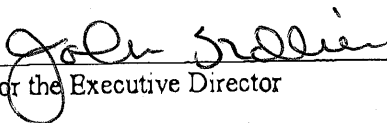
DOCKET NO. 2008-0226-WQ-E

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

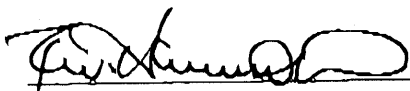

For the Executive Director5/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3-31-08

Date

T.W. HARRISON

Name (Printed or typed)

Authorized Representative of
Allco, Inc.

PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

